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ATTORNEY GENERAL

Office of the Attorney General
State of Texas

September 20, 1991

Mr. Gary W. Smith
City Attorney
City of Galveston
P.O. Box 779
Galveston, Texas 77553-0779

OR91-427

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12913.

You have received a request for access to Community Development Block Grant Fund records for the fiscal years 1986 through 1991, including all revenue and expenditure documents and related subdocuments. You claim that the documents requested are exceedingly voluminous and that fulfillment of the request for information would require an inordinate amount of staff work, would incur the loss of services of those employees involved in fulfilling the request, and would incur unacceptable expenditures. You have invited the requestor to more specifically identify the records to which he has requested access, but he has not done so. You claim, on the basis of Open Records Decision No. 304 (1982), that the request for information is not specific enough and that you may therefore deny access. Further, you claim that some of the requested information is no longer maintained by the city. Finally, you claim that some information contained on the requested documents is protected from required public disclosure by the privacy aspect of section 3(a)(1) of the Open Records Act.

We have considered the exceptions you claim and have reviewed the documents submitted to us. Previous open records decisions issued by this office resolve your request. When a governmental body is presented with a broad request for information rather than for specific records, it should advise the requestor of the types of information available so that he may narrow his request. Open Records

Decision Nos. 563, 561 (1990). However, there is no basis in previous open records decisions for a governmental body to deny access to information merely because the requestor has not narrowed his request. The Texas Supreme Court addressed a similar concern about a request for a massive amount of information. *See Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 686-87 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). The court stated that "the Act does not allow either the custodian of records or a court to consider the cost or method of supplying requested information in determining whether such information should be disclosed." *Id.*; *see also* Open Records Decision No. 151 (1977). A requestor, however, may be required to post bond as a condition precedent when preparation of requested information is unduly costly and reproduction would cause undue hardship if costs were not paid. Open Records Decision No. 467 (1987) at 6.

You assert that some of the requested information is no longer maintained by the governmental body. Open Records Decision No. 558 (1990) held that a governmental body is not ordinarily required to obtain information not in its possession, or to obtain information from another entity, so long as the entity does not hold the information on behalf of the governmental body. *See also* Open Records Decision No. 534 (1989). Accordingly, records that have been discarded, are not subject to required public disclosure.

You claim that some of the requested documents contain information excepted from required public disclosure by section 3(a)(1) which excepts "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." As part of the representative sample of documents submitted to us, you have included a death certificate. Section 3(a)(15) of the Open Records Act specifically excepts death certificates maintained by the Bureau of Vital Statistics of the Texas Department of Health from public disclosure except "on and after the 25th anniversary of the date on which the record is filed with the Bureau of Vital Statistics or local registration official." V.T.C.S. art. 6252-17a, § 3(a)(15)(B). The death certificate submitted is maintained by the Bureau of Vital Statistics and was filed less than 25 years ago. You have not, however, claimed a 3(a)(15) exception. The Attorney General is not authorized to raise exceptions on behalf of a governmental body, except for section 3(a)(1) exceptions. Open Records Decision No. 481 (1987); 344 (1982). You have not raised a 3(a)(15) exception; accordingly, you must release both death and/or birth certificates.

Included with the submitted materials were social security benefit information documents and credit reports. Section 1306 of title 42 of the United States Code specifically excepts social security benefit information from required


Mr. Gary W. Smith - Page 3 (OR91-427)

public disclosure. In addition, federal law strictly limits the distribution of consumer credit reports by credit reporting agencies. *See* 15 U.S.C. § 1681b.

You also submitted materials relating to insurance policies, records which reveal source and amount of income, and other personal financial records. Background financial information about an individual, such as this, is protected from required public disclosure by common-law privacy. *See* Open Records Decision Nos. 545 (1990); 523 (1989); 373 (1983) (copies enclosed). *Compare* Open Records Decision Nos. 480 (1987); 385 (1983) (basic facts regarding a particular financial transaction between an individual and a governmental body are not protected by common-law right of privacy). Open Records Decision No. 373 (1983) held that common-law privacy protects assets and income source information. Accordingly, all background financial information submitted on loan and grant applications may be withheld under section 3(a)(1).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-427.

Very truly yours,



Kay Guajardo
Assistant Attorney General
Opinion Committee

KG/GK/lb

Ref.: ID#s 12913, 12888, 12996

Enclosure: Open Records Decision Nos. 373, 523, 545

cc: Mr. Steve Greenberg
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